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OIPE JC103 JUL 15 2005 PATENT & TRADEMARK OFFICE

(to be used for all correspondence after initial filing)

Application Number	10/022,996
Filing Date	December 17, 2001
First Named Inventor	Joseph R. Callol
Art Unit	3731
Examiner Name	Michael H. Thaler
Total Number of Pages in This Submission	
Attorney Docket Number	ACS 57812

ENCLOSURES *(Check all that apply)*

- [X] Fee Transmittal Form
- [X] Fee Attached
- [] Amendment / Reply
- [] After Final
- [] Affidavits/declaration(s)
- [] Extension of Time Request
- [] Express Abandonment Request
- [] Information Disclosure Statement
- [] Certified Copy of Priority Document(s)
- [] Response to Missing Parts/ Incomplete Application
- [] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [] Drawing(s)
- [] Licensing-related Papers
- [] Petition
- [] Petition to Convert to a Provisional Application
- [] Power of Attorney, Revocation Change of Correspondence Address
- [] Terminal Disclaimer
- [] Request for Refund
- [] CD, Number of CD(s) _____
- [] Landscape Table on CD
- [] After Allowance Communication to TC
- [] Appeal Communication to Board of Appeals and Interferences
- [X] Appeal Communication to TC **(Appeal Notice, Brief, Reply**
- [] Proprietary Information
- [] Status Letter
- [X] Other Enclosure(s) (please identify below):

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Remarks

24201

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	FULWIDER PATTON LEE & UTECHT, LLP		
Signature	John Nagy		
Printed name	JOHN S. NAGY, ESQ.		
Date	July 13, 2005	Reg. No.	30,664

CERTIFICATE OF TRANSMISSION/MAILING

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Signature	John Nagy		
Typed or printed name	JOHN S. NAGY	Date	July 13, 2005

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Fees Pursuant to the Consolidated Appropriatons Act, 2005 (H.R.

FEE TRANSMITTAL for FY 2005

JUL 15 2005

PATENT & TRADEMARK OFFICE

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($)	$500.00

Complete if Known	
Application Number	10/022,996
Filing Date	December 27, 2001
First Named Inventor	Joseph R. Callol
Examiner Name	Michael H. Thaler
Art Unit	3731
Attorney Docket No.	ACS 57812

METHOD OF PAYMENT (check all that apply)

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☐ Deposit Deposit Account Number: 06-2425 Deposit Account Name: _____

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fees Paid($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims		Extra	Fee ($)		Fee Paid ($)
_____	- 20 or HP =	_____	x $50.00	=	$0.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims		Extra	Fee ($)		Fee Paid ($)
_____	- 3 or HP =	_____	x $200.00	=	$0.00

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listing under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
_____	- 100 =	0	/ 50	0	(round up to a whole	x $250.00	=	$0.00

4. OTHER FEE(S)

	Fee Paid ($)
Non-English specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Appeal Brief	$500.00

SUBMITTED BY

Signature	John Nagy	Registration No. (Attorney/Agent)	30,664	Telephone	(310) 824-5555
Name (Print/Type)	JOHN S. NAGY			Date	July 13, 2005

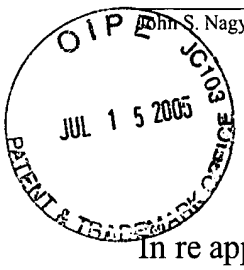
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RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3731

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John S. Nagy, Reg. No. 30,664



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

JOSEPH R. CALLOL ET AL.

Serial No. 10/022996

Filed: December 17, 2001

For: STENT FOR TREATING BIFURCATIONS AND METHOD OF USE

Examiner: Michael H. Thaler

Group Art Unit 3731

Docket No. ACS 57812

July 11, 2005

Los Angeles, California 90045

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APPEAL BRIEF

Mail Stop Appeal Brief - PATENTS
Commissioner for Patents
P.O. Box 1450
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INTRODUCTION

The present invention relates to stents and methods for delivery and deployment of stents used at a blood vessel bifurcation. More particularly the invention relates to a method for delivering one or more stents for repairing bifurcations and blood vessels that are diseased. The invention further relates to a method for treatment of a main vessel and the opening of a side branch vessel at a bifurcation including delivery and

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~~01 FC:1401~~ ~~500.00 OP~~

implementation of the stents. Generally, stents are tiny mesh tubes that are implanted in blood vessels, such as coronary arteries, to hold open the artery so that normal blood flow is maintained. The present application, U.S. Serial No. 10/022996 was filed on December 17, 2001.

A Notice of Appeal from the Final Office Action of February 15, 2005 and from the Advisory Action of May 4, 2005 was filed on May 13, 2005. The two month deadline from the Notice of appeal date is July 13, 2005, and this Appeal Brief is being filed within the term provided as permitted under 37 C.F.R. § 1.192(a). This appeal has one core issue which is whether the claimed invention is obvious under 35 U.S.C. §103(a) in view of the references cited by the Examiner. Appellant has presented strong arguments for non-obviousness in view of the references cited by the Examiner.

REQUEST FOR ORAL ARGUMENT

An oral argument is requested.

I. REAL PARTY IN INTEREST

The real party in interest is ADVANCED CARDIOVASCULAR SYSTEMS, INC. This application was originally assigned by the inventors, JOSEPH R. CALLOL and W. STAN WILSON to ADVANCED CARDIOVASCULAR SYSTEMS, INC., by assignments executed April 4, 2002 and January 23, 2002 which were recorded by the Patent Office on April 11, 2002 beginning at reel 012783, frame 0285.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

This patent application has 7 pending claims. Of the originally filed 14 claims, Claims 1-7 were canceled because of a restriction requirement. Pending Claims 8-14 were finally rejected in an Office Action dated February 15, 2005, and were also rejected in the Advisory Action of May 4, 2005.

Claims 8-14 are pending in the application and claims 8-14 are appealed. A copy of the claims appealed is attached hereto as Exhibit 1.

Claims 8-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Lam (5,607,444) in view of Kim (6,270,524). (Copies of U.S. Patent Nos. 5,607,444 and 6,270,524 are attached hereto as Exhibit 2).

IV. STATUS OF AMENDMENTS

First Office Action June 28, 2004 (a copy of which is attached as Exhibit 3)

In a first Office action dated June 28, 2004 the Examiner subjected claims 1-14 to a restriction requirement. The Examiner grouped claims 1-7 to a first invention and claims 8-14 to a second invention.

Amendment Dated July 9, 2004 (a copy of which is attached as Exhibit 4)

In a first amendment dated July 9, 2004, the Applicants:

- elected to prosecute claims from the second group, claims 8-14

- canceled claims 1-7

Second Office Action September 24, 2004 (a copy of which is attached as Exhibit 5)

In a second Office action dated September 24, 2004, the Examiner:

- rejected claims 8-14 as being unpatentable under 35 U.S.C. §103(a) over Lam (U.S. Pat. No. 5,607,444) in view of Kim (U.S. Pat. No. 6,270,524).

Amendment Dated December 22, 2004 (a copy of which is attached as Exhibit 6)

In an Amendment dated December 22, 2004, the Applicants:

- amended independent claim 8 and dependent claim 9
- presented arguments to overcome the rejections under 35 U.S.C. §103(a).

Final Office Action February 15, 2005 (a copy of which is attached as Exhibit 7)

In a Final Office Action dated February 15, 2005, the Examiner:

- rejected claims 8-14 as being unpatentable under 35 U.S.C. §103(a) over Lam (U.S. Pat. No. 5,607,444) in view of Kim (U.S. Pat. No. 6,270,524).

Amendment Dated April 13, 2005 (a copy of which is attached as Exhibit 8)

In an Amendment after final dated April 13, 2005 the Applicants:

- presented arguments to overcome the rejections under 35 U.S.C. §103(a).

Advisory Action May 4, 2005 (a copy of which is attached as Exhibit 9)

In an Advisory Action dated May 4, 2005, the Examiner:

- stated that the reply dated April 13, 2005 failed to put the application in condition for allowance

Notice of Appeal Dated May 13, 2005 (a copy of which is attached as Exhibit 10)

Notice of Appeal Dated May 13, 2005 was filed by Applicant.

V. SUMMARY OF THE INVENTION

The present invention includes a method of delivering a bifurcated stent. More specifically, the present invention is a method for treating the proximal portion of a main vessel and the opening of a side branch vessel at a bifurcation.

In one embodiment, a method of delivering and implanting a stent mounted on a catheter assembly are disclosed in the present invention. The bifurcated catheter assembly of the present invention provides two separate balloons in parallel which are advanced into separate passageways of an arterial bifurcation and the balloons are inflated either simultaneously or independently (or a combination thereof) to expand and implant the stent. More specifically, and in keeping with the invention, the catheter assembly is advanced through a guiding catheter (not shown) until the distal end of the catheter assembly reaches the ostium to the coronary arteries. A rapid exchange (Rx) guide wire is advanced out of the Rx shaft and into the coronary arteries to a point distal of the bifurcation or target site. In a typical procedure, the Rx guide wire will already be positioned in the main vessel after a pre-dilatation procedure. The catheter assembly is advanced over the Rx guide wire so that the catheter distal end is just proximal to the opening to the side branch vessel. Up to this point in time, an over-the wire (OTW) guide wire (or mandrel or joining wire) remains within the catheter assembly and within the coupler so that the long balloon and the short balloon of the catheter assembly remain side by side to provide a low profile. As the catheter assembly is advanced to the bifurcated area, the coupler moves axially relative to the distal end of the OTW guide wire (or mandrel or joining wire) a small distance (approximately 0.5 mm up to about 5.0

mm), but does not pull completely out of the coupler, making it easier for the distal end of the catheter to negotiate tortuous turns in the coronary arteries. Thus, the slight axial movement of the coupler relative to the OTW guide wire (or mandrel or joining wire) distal end allows the catheter tips to act or move independently, thereby increasing flexibility over the tips joined rigidly and it aids in the smooth tracking of the catheter assembly over the Rx guide wire. The proximal end of the OTW guide wire is releasably attached to a proximal hub. The OTW guide wire (or mandrel or joining wire) is removed or withdrawn proximally from the coupler, thereby uncoupling the long balloon and the short balloon. Thereafter, the OTW guide wire is advanced distally into the side branch vessel so that the catheter assembly can next be advanced distally over the Rx guide wire in the main vessel and the OTW guide wire in the side branch vessel. The separation between the Rx guide wire and the OTW guide wire allows the long balloon and the short balloon to separate slightly as the catheter assembly is further advanced over the Rx guide wire and the OTW guide wire. The catheter assembly advances distally until it reaches a point where the distal end of the stent is approximately adjacent to the opening to the side branch vessel, so that the catheter assembly can no longer be advanced distally since the stent is now pushing up against the opening to the side branch vessel. One or more radiopaque markers are placed on the distal portion of the catheter assembly to aid in positioning the stent with respect to the bifurcation or target site. Once the long and short balloons with the stent mounted thereon are positioned in the main vessel just proximal to the side branch vessel, the long balloon and the short balloon are next inflated simultaneously or independently (or a combination thereof), to expand the stent

in the main vessel and the opening to the side branch vessel. The distal portion of the stent is expanded into contact with the opening to the side branch vessel and the distal opening should substantially coincide with the opening to the side branch vessel providing a clear blood flow path through the proximal opening of the stent and into the side branch vessel. By inflating the long balloon and the short balloon substantially simultaneously, plaque shifting is avoided and better vessel wall coverage results. After implanting the stent, the distal opening will have a substantially elliptical shape due to the shape of the vessel opening. In this embodiment, the proximal section of the stent apposes the main vessel wall at a location proximal to the opening to the side branch vessel so that the stent does not cover the main vessel distal to the bifurcation which does not require repair or treatment.

VI. ISSUES ON APPEAL

In the Final Office Action dated February 15, 2005, the Examiner rejected claims 8-14 under 35 U.S.C. §103(a) as being unpatentable over Lam (5,607,444) in view of Kim (6,270,524). The Examiner argued that Lam discloses the steps of providing a stent having a first section and a second section, mounting the stent on a catheter having a long balloon and a short balloon, wherein the long balloon and short balloon are positioned side by side. The Examiner further asserted that in the configuration shown in Figure 7, the balloons are positioned side by side because the short balloon curves downwardly "near the side of the long balloon."

In view of the Examiner's rejections, Appellant respectfully submits that the issue is as follows:

Issue 1. Are claims 8-14 patentable under 35 U.S.C. §103(a) over U.S. Patent No. 5,607,444 to Lam in view of U.S. Patent No. 6,270,524 to Kim.

VII. GROUPING OF CLAIMS

Claims 8-14 stand or fall together.

VIII. ARGUMENT

ISSUE 1

In the Final Office Action dated February 15, 2005, the Examiner rejected claims 8-14 under 35 U.S.C. §103(a) as being unpatentable over Lam (5,607,444) in view of Kim (6,270,524). The Examiner dismissed Appellant's argument that the Lam patent does not teach or disclose "mounting the stent on a catheter having a long balloon and a short balloon wherein the long balloon and short balloon are positioned side by side." The Examiner stated that the balloons are positioned side by side because the short balloon curves downwardly "near the side of the long balloon" in Figure 7 of Lam. Appellant maintains that Lam does not teach mounting the stent on a catheter having a long balloon and a short balloon, wherein the long balloon and the short balloon are positioned side by side. Appellant further asserts that Lam teaches away from the balloons being positioned side by side during the insertion of the stent.

A. THE PRESENT INVENTION CLAIMS ARE PATENTABLE OVER LAM IN VIEW OF KIM

In the Final Office Action dated February 15, 2005, the Examiner rejected claims 8-14 under 35 U.S.C. §103(a) as being unpatentable over Lam (5,607,444) in view of Kim (6,270,524). The rejection based on Lam in view of Kim was first brought in the second Office Action dated September 24, 2004. The Examiner has maintained this rejection notwithstanding Appellant's amendments and overwhelmingly strong arguments provided in each response.

Independent claim 8 recites in pertinent part "mounting the stent on a catheter having a long balloon and a short balloon wherein the long balloon and the short balloon are positioned side by side." Neither the Lam nor Kim prior art references teach or suggest mounting a stent on a catheter having a long balloon and a short balloon wherein the long balloon and the short balloon are positioned side by side. For this reason alone, claim 8 is patentably distinguishable over Lam and Kim.

In the Advisory Action mailed May 4, 2005, at page 2, the Examiner argued that claim 8 does not specify if the balloons are positioned side by side "1) before the mounting step (in line 5), 2) after the mounting step, 3) during the mounting step or 4) all three of the above time periods." The Examiner further argued that claim 8 does require that the long balloon and the short balloon be positioned side by side but is silent as to when this occurs relative to the other steps in the claim. Appellants' position is that claim 8 cannot be any more clear. Claim 8 requires the stent to be mounted on the catheter which has a long balloon and a short balloon where the long balloon and the short balloon

are positioned side by side. In other words, the stent is mounted on the long balloon and the short balloon while they are side by side. Nothing can be more clear.

Focusing on the Examiner's Advisory Action statement regarding the timing of the mounting of the stent, clearly the balloons cannot be positioned side by side after the stent is mounted on the balloons. Thus, items 3 and 4 of the Examiner's argument (set forth above) are obviated. Further, it is irrelevant whether the balloons are side by side "before the mounting step" or "during the mounting step" since the prior art to Lam does not show either claim element. Accordingly, the Examiner's arguments set forth in the Advisory Action must fail.

Notwithstanding the semantics raised by the Examiner with respect to the time relationship of when the stent is mounted on the long balloon and the short balloon, the fact remains that the Lam prior art patent does not show a stent being "mounted" on a catheter where the balloons are side by side. There is no teaching anywhere in the Lam patent regarding balloons being positioned side by side. Absent a teaching in Lam of mounting the stent on balloons positioned side by side, the rejection of the claims under 35 U.S.C. § 103 should be overturned.

Further, neither Lam nor Kim disclose a long balloon and a short balloon positioned side by side for deploying a stent at a bifurcation. There is no suggestion or teaching in either Lam or Kim that two balloons, one being long and the other being short, positioned side by side, would be capable of delivering any of the stents disclosed in the prior art references.

The Lam patent discloses multiple balloons axially aligned, not side by side. Once the distal portion of one of the balloons is positioned in a bifurcated vessel and inflated, only then does a portion of the most distal balloon become oriented at an angle to the proximal balloon. Lam does not teach how the most distal balloon may be deployed so as to reverse direction one hundred and eighty degrees to come into position along the side of the other proximally located balloon, even after inflation. As shown in Figure 7 of Lam, the most distal balloon in fact diverges away from the proximal balloon as the most distal balloon is inflated. In fact, the divergent orientation of the most distal balloon in relationship to the proximal balloon illustrated in Figure 7 of Lam teaches away from the long balloon and the short balloon (taught by the present invention) being positioned side by side at any time.

Further, again referring to claim 8, it recites in pertinent part "advancing the catheter and stent through the vascular system to a position proximal of the bifurcation." As the catheter and stent are being advanced through the vascular system to the position proximal of the bifurcation, the stent remains mounted on the long balloon and the short balloon which are positioned side by side. This method step is not shown in Lam nor is it possible based on the construction of the Lam catheter where the balloons are oriented axially along the catheter shaft. Thus, claim 8 is patentably distinguishable over the Lam prior art reference and the rejection under 35 U.S.C. § 103(a) should be reversed. Likewise, dependent claims 9-14 are distinguishable over the Lam prior art reference at least for the same reasons as independent claim 8 and the rejection of dependent claims 9-14 should be withdrawn.

The Kim patent does not teach any particular type of balloon catheter for use in delivery of the stent disclosed therein. Further, Kim fails to disclose any type of stent structure that arguably could be mounted on two balloons mounted side by side as set forth in claim 8 of the present application. Thus, the Kim patent adds nothing to the shortcomings of the Lam patent in maintaining the rejection of claims 8-14.

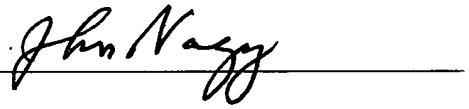
Accordingly, it is urged that claims 8-14, as amended, are patentably distinguishable over the cited art and that the rejection under 35 U.S.C. § 103(a) should be reversed.

IX. CONCLUSION

For the foregoing reasons, it is submitted that the present invention as claimed is not rendered obvious by Lam (5,607,444) in view of Kim (6,270,524), and that the Examiner's rejections of Claims 8-14 were therefore erroneous. Appellant respectfully requests reversal of the rejection of Claims 8-14.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

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LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
1	Appealed Claims
2	U.S. Patent No. 5,607,444 to Lam and U.S. Patent No. 6,270,524 to Kim
3	First Office action dated June 28, 2004
4	Amendment filed July 9, 2004
5	Second Office action dated September 24, 2004
6	Amendment filed December 22, 2004
7	Final Office action dated February 15, 2005
8	Amendment filed April 13, 2005
9	Advisory Action dated May 4, 2005
10	Notice of Appeal filed May 13, 2005

EXHIBIT 1.

CLAIMS ON APPEAL:

8. A method for treating the proximal portion of a main vessel and the opening of a side branch vessel at a bifurcation, comprising:

providing a stent having a plurality of first rings and a plurality of second rings;

mounting the stent on a catheter having a long balloon and a short balloon wherein the long balloon and short balloon are positioned side by side;

advancing the catheter and stent through the vascular system to a position proximal of the bifurcation;

positioning the stent at the bifurcation so that the second rings are aligned with the opening to the side branch vessel;

inflating the long balloon and the short balloon to radially expand the stent so that the first rings appose and contact the main vessel proximal to the bifurcation and the second rings appose and contact the opening of the side branch vessel; and

deflating the long balloon and the short balloon and withdrawing the catheter from the vascular system.

9. The method of claim 8, wherein the second rings form a substantially elliptical cross-section when expanded to appose and contact the opening to the side branch vessel.

10. The method of claim 8, wherein the stent is expanded in the main vessel so that substantially no portion of the stent is distal of the side branch vessel.

11. The method of claim 8, wherein the catheter includes a rapid exchange (RX) guide wire passageway for receiving an RX guide wire and an over-the-wire (OTW) guide wire passageway for receiving an OTW guide wire so that as the stent is positioned at the bifurcation, the catheter is slidably advancing over the RX guide wire and the OTW guide wire.

12. The method of claim 11, wherein as the catheter is advanced through the vascular system, the catheter slides over the RX guide wire positioned in the main vessel while a distal end of the OTW is positioned within a blind lumen.

13. The method of claim 12, wherein after the catheter is positioned proximal to the bifurcation, the OTW guide wire is withdrawn from the blind lumen and advanced into the side branch vessel.

14. The method of claim 13, wherein after the OTW guide wire is advanced into the side branch vessel, the catheter is advanced distally over the RX guide wire and the OTW guide wire to position the stent at the bifurcation.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,996	12/17/2001	Joseph R. Callol	ACS 57812	4121

JSN

24201 7590 06/28/2004

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EXAMINER	
THALER, MICHAEL H	
ART UNIT	PAPER NUMBER
3731	

DATE MAILED: 06/28/2004

Response Due July 28, 2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/022,996	CALLOL ET AL.	
	Examiner	Art Unit	
	Michael Thaler	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-14* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-7, drawn to a stent, classified in class 623, subclass 1.15.

II. Claims 8-14, drawn to a method of treating the proximal portion of a main vessel and the opening of a side branch vessel at a bifurcation, classified in class 128, subclass 898.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process. For example, it could be deployed by making the stent self expanding and without the using the catheter having the long balloon and short balloon defined in claim 8.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by

mht
6/4/04

MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Mail Stop NON-FEE AMENDMENT, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 20231-1450 on July 9, 2004.

John S. Nagy, Reg. No. 46,664

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/022,996
Applicants	:	Joseph R. Callol, W. Stan Wilson
Filed	:	December 17, 2001
Art Unit	:	3731
Examiner	:	Michael H. Thaler
Title	:	STENT FOR TREATING BIFURCATIONS AND METHOD OF USE
Docket No.:	:	ACS 57812 (2625X)
Customer No.	:	24201

Mail Stop NON-FEE AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Dear Sir:

This paper is responsive to the Office action mailed June 28, 2004, the response for which is due July 28, 2004.

Claims start on page 2.

Remarks start on page 4.

AMENDMENTS TO THE CLAIMS:

The listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS:

Claims 1-7. (Cancel)

8. (Original) A method for treating the proximal portion of a main vessel and the opening of a side branch vessel at a bifurcation, comprising:

providing a stent having a plurality of first rings and a plurality of second rings;

mounting the stent on a catheter having a long balloon and a short balloon;

advancing the catheter and stent through the vascular system to a position proximal of the bifurcation;

positioning the stent at the bifurcation so that the second rings are aligned with the opening to the side branch vessel;

inflating the long balloon and the short balloon to radially expand the stent so that the first rings are apposed to the main vessel proximal to the bifurcation and the second rings are apposed to the opening of the side branch vessel; and

deflating the long balloon and the short balloon and withdrawing the catheter from the vascular system.

9. (Original) The method of claim 8, wherein the second rings form a substantially elliptical cross-section when expanded to appose the opening to the side branch vessel.

10. (Original) The method of claim 8, wherein the stent is expanded in the main vessel so that substantially no portion of the stent is distal of the side branch vessel.

11. (Original) The method of claim 8, wherein the catheter includes a rapid exchange (RX) guide wire passageway for receiving an RX guide wire and an

over-the-wire (OTW) guide wire passageway for receiving an OTW guide wire so that as the stent is positioned at the bifurcation, the catheter is slidably advancing over the RX guide wire and the OTW guide wire.

12. (Original) The method of claim 11, wherein as the catheter is advanced through the vascular system, the catheter slides over the RX guide wire positioned in the main vessel while a distal end of the OTW is positioned within a blind lumen.

13. (Original) The method of claim 12, wherein after the catheter is positioned proximal to the bifurcation, the OTW guide wire is withdrawn from the blind lumen and advanced into the side branch vessel.

14. (Original) The method of claim 13, wherein after the OTW guide wire is advanced into the side branch vessel, the catheter is advanced distally over the RX guide wire and the OTW guide wire to position the stent at the bifurcation.

REMARKS

Pursuant to the restriction requirement under 35 U.S.C. § 121, Applicants elect Group II, claims 8-14 for further prosecution, without traverse. Claims 1-7 have been canceled.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: _____
John S. Nagy
Registration No. 30,664

JSN:jeb

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Customer No. 24201
58439.1

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,996	12/17/2001	Joseph R. Callol	ACS 57812	4121

JSN

24201 7590 09/24/2004

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER	
THALER, MICHAEL H	
ART UNIT	**PAPER NUMBER**
3731	

DATE MAILED: 09/24/2004

Response Due December 24, 2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/022,996	CALLOL ET AL.	
	Examiner	Art Unit	
	Michael Thaler	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/8/02, 4/25/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam (5,607,444) in view of Kim (6,270,524). Lam, in figures 5 and 7, for example, discloses the steps of providing a stent having a first section 24 and a second section 25, mounting the stent on a catheter (figure 7) having a long balloon (the long balloon on the left side of the figure) and a short balloon (the short balloon on the right side of the figure), advancing the catheter and stent through the vascular system to a position proximal of the bifurcation 22, positioning the stent so that the second section 25 is aligned with the opening to the side branch vessel (the vessel oriented generally vertically in figure 7), inflating the balloons to radially expand the stent so that the first section 24 is apposed to the main vessel (the vessel oriented generally horizontally in figure 7) proximal of the bifurcation and the second section 25 is apposed to the opening of the side branch vessel and

deflating the balloons and withdrawing the catheter. Lam fails to specifically disclose that the first and second sections have a plurality of rings. However, Lam teaches that the stent possesses a tubular structure with some geometric pattern that facilitates shape retention and expansion (col. 5, lines 49-65). Kim teaches that a stent should be constructed of a plurality of rings 14 apparently in order to obtain the advantage of facilitating shape retention and expansion (col. 9, lines 22-33). It would have been obvious to use this construction for the Lam stent so that it would have the above described advantage. As to claim 8, the second section 25 of Lam inherently forms an elliptical cross-section when conforming to the vessel walls 41 (as described in col. 7, lines 8-10) since it expands greatly in the directions to the top and bottom of figure 7 (along the axis of the side branch vessel) but curves around the circumference of the side branch vessel (in directions out of the plane of the paper of figure 7). Alternatively, assuming *arguendo* that Lam fails to inherently disclose an elliptical cross section, Kim teaches that the cross-section of a stent should be elliptical when expanded in order to conform to the inner luminal wall (col. 7, lines 16-25 and col. 10, lines 30-33). It would have been obvious to make the cross-section of the Lam stent elliptical when expanded so

that it too would have this advantage. As to claims 11-14, Lam fails to disclose the specific rapid exchange catheter. However, it is old and well known in this art to use rapid exchange catheters to facilitate easy exchange of the catheters. It would have been obvious to use such a catheter in the Lam procedure in order to obtain this advantage.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note col. 3, lines 56-58 of Susawa et al. (5,591,222) and col. 8, lines 28-31 of Bailey et al. (6,652,578).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (703) 308-2981. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (703)308-2154. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

mht
9/21/04

MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731

PTO/SB/08A (08-00)
Approved for use through 10/31/02. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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JUL 08 2002
PATENT & TRADEMARK OFFICE

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

Complet If Known	
Application Number	10/022,996
Filing Date	December 17, 2001
First Named Inventor	Joseph R. Callol
Group Art Unit	3763
Examiner Name	Unassigned
Attorney Docket Number	ACS 57812

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TECHNOLOGY CENTER R3700

U.S. PATENT DOCUMENTS

Examiner Initials	Cite No.	U.S. Patent Document No. Number	Kind Code (If Known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		6,129,754		Kanesaka et al.	10-10-2000	
		6,165,195		Wilson et al.	12-26-2000	
		6,183,509 B1		Dibie	02-06-2001	
		6,187,036 B1		Shaolian et al.	02-13-2001	
		6,210,429 B1		Vardi et al.	04-03-2001	
		6,221,098 B1		Wilson et al.	04-24-2001	
		6,254,593 B1		Wilson	07-03-2001	
		6,258,116 B1		Hojeibane	07-10-2001	
		6,264,682 B1		Wilson et al.	07-24-2001	
		6,346,089 B1		Dibie	02-12-2002	

FOREIGN PATENT DOCUMENTS

Examiner Initials	Cite No.	Foreign Patent Document Office	Number	Kind Code (If Known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T*
		U.S. Patent Application Publication No. 2001/0037137 A1 to Vardi et al. published November 1, 2001.	
		U.S. Patent Application Publication No. 2001/0049548 A1 to Vardi et al. published December 6, 2001.	
		U.S. Patent Application Publication No. 2001/0056297 A1 to Hojeibane published December 27, 2001.	
		U.S. Patent Application Publication No. 2002/0035389 A1 to Richter et al. published March 21, 2002.	
		U.S. Patent Application Publication No. 2002/0042650 A1 to Vardi et al. published April 11, 2002.	

Examiner Signature		Date Considered	9-21-04

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

Complete if Known	
Application Number	10/022,996
Filing Date	December 17, 2001
First Named Inventor	Joseph R. Callol
Art Unit	3763
Examiner Name	Unassigned
Attorney Docket Number	ACS-57812 (2625 X)

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number: Number	Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
JC		US- 5,607,444		03-04-1997	Lam	
JC		US- 5,632,762		05-27-1997	Myler	
		US-				
		US-				
		US-				
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document: Office[3]	Number[4]	Kind[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
JC		EP	EP0740928	A2	11-06-1996	CORVITA EUROPE		
JC		WO	WO 01/52769	A1	07-26-2001	METZ, Helga		
JC		WO	WO 02/091951	A2	11-21-2002	Advanced Cardiovascular Syst		

Examiner Signature		Date Considered	9-21-04

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [4] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. [5] Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Notice of References Cited	Application/Control No. 10/022,996	Applicant(s)/Patent Under Reexamination CALLOL ET AL.	
	Examiner Michael Thaler	Art Unit 3731	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,270,524	08-2001	Kim, Steven W.	623/1.15
	B	US-5,591,222	01-1997	Susawa et al.	606/195
	C	US-6,652,578	11-2003	Bailey et al.	623/1.24
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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John S. Nagy, Reg. No. 30,664 John Nagy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/022,996
Applicants	:	Joseph R. Callol, W. Stan Wilson
Filed	:	December 17, 2001
Art Unit	:	3731
Examiner	:	Michael H. Thaler
Title	:	STENT FOR TREATING BIFURCATIONS AND METHOD OF USE
Docket No.:	:	ACS 57812 (2625X)
Customer No.	:	24201

Mail Stop NON-FEE AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Dear Sir:

This paper is responsive to the Office action mailed September 24, 2004, the response for which is due December 24, 2004.

Claims start on page 2.

Remarks start on page 4.

AMENDMENTS TO THE CLAIMS:

The listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS:

Claims 1-7. (Canceled)

8. (Currently Amended) A method for treating the proximal portion of a main vessel and the opening of a side branch vessel at a bifurcation, comprising:

providing a stent having a plurality of first rings and a plurality of second rings;

mounting the stent on a catheter having a long balloon and a short balloon wherein the long balloon and short balloon are positioned side by side;

advancing the catheter and stent through the vascular system to a position proximal of the bifurcation;

positioning the stent at the bifurcation so that the second rings are aligned with the opening to the side branch vessel;

inflating the long balloon and the short balloon to radially expand the stent so that the first rings [are apposed to] appose and contact the main vessel proximal to the bifurcation and the second rings [are apposed to] appose and contact the opening of the side branch vessel; and

deflating the long balloon and the short balloon and withdrawing the catheter from the vascular system.

9. (Currently Amended) The method of claim 8, wherein the second rings form a substantially elliptical cross-section when expanded to appose and contact the opening to the side branch vessel.

10. (Original) The method of claim 8, wherein the stent is expanded in the main vessel so that substantially no portion of the stent is distal of the side branch vessel.

11. (Original) The method of claim 8, wherein the catheter includes a rapid exchange (RX) guide wire passageway for receiving an RX guide wire and an over-the-wire (OTW) guide wire passageway for receiving an OTW guide wire so that as the stent is positioned at the bifurcation, the catheter is slidably advancing over the RX guide wire and the OTW guide wire.

12. (Original) The method of claim 11, wherein as the catheter is advanced through the vascular system, the catheter slides over the RX guide wire positioned in the main vessel while a distal end of the OTW is positioned within a blind lumen.

13. (Original) The method of claim 12, wherein after the catheter is positioned proximal to the bifurcation, the OTW guide wire is withdrawn from the blind lumen and advanced into the side branch vessel.

14. (Original) The method of claim 13, wherein after the OTW guide wire is advanced into the side branch vessel, the catheter is advanced distally over the RX guide wire and the OTW guide wire to position the stent at the bifurcation.

REMARKS

Claims 8-14 are pending in the application. Claims 8 and 9 have been amended. No new matter is presented. Claims 1-7 have been canceled. Reconsideration is respectfully requested.

Claims 8-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lam (U.S. Patent No. 5,607,444) in view of Kim (U.S. Patent No. 6,270,524). Applicant respectfully traverses. Applicant respectfully disagrees that the Lam reference shows the stent being mounted on a catheter (Fig. 7) having a long balloon and a short balloon as noted by the Examiner. In Fig. 7, the portion of the balloon on the right side of the figure has an irregular shape and it is urged that it cannot be considered to be a short balloon relative to the long balloon on the left side of Fig. 7. However, to remove all doubt that the present invention is patentably distinguishable, independent claim 8 of the present invention has been amended so that the orientation of the long balloon relative to the short balloon are recited as being "side by side." Thus, neither Lam nor Kim disclose a long balloon and a short balloon positioned side by side for deploying a stent at a bifurcation. Further, there is no suggestion or teaching in either Lam or Kim that two balloons, one being long and the other being short, positioned side by side, would be capable of delivering any of the stents disclosed in the prior art references. Accordingly, it is urged that claims 8-14, as amended, are patentably distinguishable over the cited art and that the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Claims 8-14 remain pending in the application. If a telephone conference with the would in any way facilitate prosecution of the application, the Examiner is encouraged to call the undersigned at (310) 824-5555.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: _____
John S. Nagy
Registration No. 30,664

JSN:jeb

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
58439.1

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,996	12/17/2001	Joseph R. Callol	ACS 57812	4121

24201 7590 02/15/2005

FULWIDER PATTON LEE & UTECHT, LLP
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EXAMINER	
THALER, MICHAEL H	
ART UNIT	**PAPER NUMBER**
3731	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

FINAL REJECTION

2 - MONTH RESPONSE DUE: April 15, 2005
3 - MONTH RESPONSE DUE: May 15, 2005
NOTICE OF APPEAL DUE:
(6-MONTH PERIOD ENDS) August 15, 2005

Office Action Summary	Application No.	Applicant(s)	
	10/022,996	CALLOL ET AL.	
	Examiner	Art Unit	
	Michael Thaler	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/18/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam (5,607,444) in view of Kim (6,270,524). Lam, in figures 5 and 7, for example, discloses the steps of providing a stent having a first section 24 and a second section 25, mounting the stent on a catheter (figure 7) having a long balloon (the long balloon on the left side of the figure) and a short balloon (the short balloon on the right side of the figure), wherein the long balloon and short balloon are positioned side by side (i.e. in the configuration shown in figure 7, the balloons are positioned side by side since the lower portion of the short balloon is positioned by the side of the long balloon because the short balloon curves downwardly near the side of the long balloon), advancing the catheter and stent through the vascular system to a position proximal of the bifurcation 22, positioning the stent so that the second section 25 is aligned with the opening to the side branch vessel (the vessel oriented generally vertically in figure 7), inflating the balloons to radially expand the stent so that the first section 24 is apposes and contacts the main vessel (the vessel oriented generally horizontally in figure 7) proximal of the bifurcation and the second section 25 is apposes and contacts the opening of the side branch vessel and deflating the balloons and withdrawing the catheter. Lam fails to specifically disclose

that the first and second sections have a plurality of rings. However, Lam teaches that the stent possesses a tubular structure with some geometric pattern that facilitates shape retention and expansion (col. 5, lines 49-65). Kim teaches that a stent should be constructed of a plurality of rings 14 apparently in order to obtain the advantage of facilitating shape retention and expansion (col. 9, lines 22-33). It would have been obvious to use this construction for the Lam stent so that it would have the above described advantage. As to claim 8, the second section 25 of Lam inherently forms an elliptical cross-section when conforming to the vessel walls 41 (as described in col. 7, lines 8-10) since it expands greatly in the directions to the top and bottom of figure 7 (along the axis of the side branch vessel) but curves around the circumference of the side branch vessel (in directions out of the plane of the paper of figure 7). Alternatively, assuming arguendo that Lam fails to inherently disclose an elliptical cross section, Kim teaches that the cross-section of a stent should be elliptical when expanded in order to conform to the inner luminal wall (col. 7, lines 16-25 and col. 10, lines 30-33). It would have been obvious to make the cross-section of the Lam stent elliptical when expanded so that it too would have this advantage. As to claims 11-14, Lam fails to disclose the

specific rapid exchange catheter. However, it is old and well known in this art to use rapid exchange catheters to facilitate easy exchange of the catheters. It would have been obvious to use such a catheter in the Lam procedure in order to obtain this advantage. The above well known in the art statement is taken to be admitted prior art because applicant failed to traverse the examiner's assertion (M.P.E.P. 2144.03).

Applicant's arguments filed Dec. 28, 2004 have been fully considered but they are not persuasive. The allegation that the balloon on the right side of figure 7 of Lam is not a short balloon relative to the long balloon on the left side of the figure because "it has an irregular shape" is not well taken. Simply looking at figure 7 with the naked eye reveals that the left balloon is more than twice as long as the right balloon as measured along the longitudinal axis of the catheter. Even if one considers the longest dimension of the right balloon (the vertical dimension in figure 7) to be its length, it still is noticeably shorter than the left balloon. Further, the lower portion of the short balloon is positioned by the side of the long balloon as set forth above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note col. 11,

lines 24-44, col. 12, lines 15-29 and figure 17 of Adams et al. (6,099,497).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the

organization where this application or proceeding is assigned is (703)872-9306.

mht
2/10/05

MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731

PTO/SB/08a (06-03)
Approved for use through 07/31/2003 OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

Complete if Known	
Application Number	10/022,996
Filing Date	December 27, 2005
First Named Inventor	Joseph R. Callol
Art Unit	3731
Examiner Name	Michael H. Thaler
Attorney Docket Number	ACS 57812

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No[1]	Document Number: Number	Document Number: Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
MH		2004/0186508		09/23/04	Adams et al.	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No[1]	Foreign Patent Document: Office[3]	Foreign Patent Document: Number[4]	Foreign Patent Document: Kind[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T[6]

Examiner Signature		Date Considered	2-10-05

44776.1

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO, Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Notice of References Cited	Application/Control No. 10/022,996	Applicant(s)/Patent Under Reexamination CALLOL ET AL.	
	Examiner Michael Thaler	Art Unit 3731	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,099,497	08-2000	Adams et al.	604/96.01
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Mail Stop AMENDMENT, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 20231-1450 on April 13, 2005.

John S. Nagy, Reg. No. 30,664 John Nagy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/022,996
Applicants	:	Joseph R. Callol, W. Stan Wilson
Filed	:	December 17, 2001
Art Unit	:	3731
Examiner	:	Michael H. Thaler
Title	:	STENT FOR TREATING BIFURCATIONS AND METHOD OF USE
Docket No.:	:	ACS 57812 (2625X)
Customer No.	:	24201

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE UNDER 37 C.F.R. § 1.116

Dear Sir:

This paper is responsive to the final Office action mailed February 15, 2005, the response for which is due May 15, 2005. It is respectfully requested that this response after final rejection be entered.

Claims start on page 2.

Remarks start on page 4.

AMENDMENTS TO THE CLAIMS:

The listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS:

Claims 1-7. (Canceled)

8. (Previously Presented) A method for treating the proximal portion of a main vessel and the opening of a side branch vessel at a bifurcation, comprising:

providing a stent having a plurality of first rings and a plurality of second rings;

mounting the stent on a catheter having a long balloon and a short balloon wherein the long balloon and short balloon are positioned side by side;

advancing the catheter and stent through the vascular system to a position proximal of the bifurcation;

positioning the stent at the bifurcation so that the second rings are aligned with the opening to the side branch vessel;

inflating the long balloon and the short balloon to radially expand the stent so that the first rings appose and contact the main vessel proximal to the bifurcation and the second rings appose and contact the opening of the side branch vessel; and

deflating the long balloon and the short balloon and withdrawing the catheter from the vascular system.

9. (Previously Presented) The method of claim 8, wherein the second rings form a substantially elliptical cross-section when expanded to appose and contact the opening to the side branch vessel.

10. (Previously Presented) The method of claim 8, wherein the stent is expanded in the main vessel so that substantially no portion of the stent is distal of the side branch vessel.

11. (Previously Presented) The method of claim 8, wherein the catheter includes a rapid exchange (RX) guide wire passageway for receiving an RX guide wire and an over-the-wire (OTW) guide wire passageway for receiving an OTW guide wire so that as the stent is positioned at the bifurcation, the catheter is slidably advancing over the RX guide wire and the OTW guide wire.

12. (Previously Presented) The method of claim 11, wherein as the catheter is advanced through the vascular system, the catheter slides over the RX guide wire positioned in the main vessel while a distal end of the OTW is positioned within a blind lumen.

13. (Previously Presented) The method of claim 12, wherein after the catheter is positioned proximal to the bifurcation, the OTW guide wire is withdrawn from the blind lumen and advanced into the side branch vessel.

14. (Previously Presented) The method of claim 13, wherein after the OTW guide wire is advanced into the side branch vessel, the catheter is advanced distally over the RX guide wire and the OTW guide wire to position the stent at the bifurcation.

REMARKS

Claims 8-14 are pending in the application. Claims 1-7 have been canceled. Reconsideration is respectfully requested.

Claims 8-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lam (U.S. Patent No. 5,607,444) in view of Kim (U.S. Patent No. 6,270,524). Applicant respectfully traverses. With all due respect, it is urged that the Examiner be mindful that method claims are being presented in this patent application. In the previous Office action dated September 24, 2004, and in the Response filed December 28, 2004, the position of the long balloon and the short balloon being side by side were at issue. Apparently, notwithstanding Applicants' amendment to clarify the position of the long balloon and the short balloon, that issue remains in the present final Office action. Applicants respectfully traverse the rejection.

The Lam patent is distinguishable from claim 8 in that the Lam patent does not teach or disclose a long balloon and a short balloon that are side by side during delivery. Referring to claim 8 of the present application, it recites in pertinent part "mounting the stent on a catheter having a long balloon and a short balloon wherein the long balloon and the short balloon are positioned side by side." Nowhere in the Lam patent does it show a stent being mounted on a long balloon and a short balloon that are positioned side by side. At best, and Applicants do not agree with the Examiner's interpretation, Lam shows multiple balloons axially aligned and, once the distal portion of one of the balloons is positioned in a bifurcated vessel, only then does it become oriented to the side of one of the other balloons. This in fact does not meet the claim language of claim 8. Claim 8 specifically recites the method step of mounting the stent on a long balloon and a short balloon that are positioned side by side. This is not shown or taught in Lam. Further, again referring to claim 8, it recites in pertinent part "advancing the catheter and stent through the vascular system to a position proximal of the bifurcation." As the catheter and stent are being advanced through the vascular system to the position proximal of the

bifurcation, the stent remains mounted on the long balloon and the short balloon which are positioned side by side. This method step is not shown in Lam nor is it possible based on the construction of the Lam catheter where the balloons are oriented axially along the catheter shaft. Thus, it is respectfully urged that claim 8 is patentably distinguishable over the Lam prior art reference and that the rejection under 35 U.S.C. § 103(a) should be withdrawn. Likewise, dependent claims 9-14 are distinguishable over the Lam prior art reference for the same reasons as independent claim 8.

The Kim patent does not teach any particular type of balloon catheter for use in delivery of the stent disclosed therein. Further, Kim fails to disclose any type of stent structure that arguably could be mounted on two balloons mounted side by side as set forth in claim 8 of the present application. Thus, the Kim patent adds nothing to the shortcomings of the Lam patent in maintaining the rejection of claims 8-14.

It is respectfully urged that claims 8-14 are patentably distinguishable over the cited art. If the Examiner is compelled to maintain the present rejections, it is respectfully requested that this response be entered for purposes of appeal. The undersigned can be reached at (310) 824-5555.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: John Nagy
John S. Nagy
Registration No. 30,664

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MAY 06 2005

FULWIDER PATTON

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,996	12/17/2001	Joseph R. Callol	ACS 57812	4121

24201 7590 05/04/2005

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EXAMINER	
THALER, MICHAEL H	

ART UNIT	PAPER NUMBER
3731	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

FINAL REJECTION

2 - MONTH RESPONSE DUE: _____

3 - MONTH RESPONSE DUE: MAY 15, 2005

NOTICE OF APPEAL DUE: _____

(6-MONTH PERIOD ENDS) AUGUST 15, 2005

PTO-90C (Rev. 10/03)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/022,996	Applicant(s) CALLOL ET AL.	
	Examiner Michael Thaler	Art Unit 3731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
 a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

 NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: please see the attached pages.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Michael Thaler
Primary Examiner
Art Unit: 3731

The phrase "wherein the long balloon and short balloon are positioned side by side" in claim 8, line 6 does not specify if the balloons are so positioned 1) before the mounting step (in line 5), 2) after the mounting step, 3) during the mounting step or 4) all three of the above time periods. In other words, claim 8 does require that the long balloon and short balloon be positioned side by side but is silent as to when this occurs relative to the other steps in the claim. In general, unless a method claim specifically indicates the order that the method steps are performed, the claim is broad in the sense that the steps of the prior art can be performed in an order different than the order in which they are listed in the claim and still meet the claim limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht
4/28/05

MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 20231-1450 on May 13, 2005.

John S. Nagy, Reg. No. 30,664

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/022,996
Applicants	:	Joseph R. Callol, W. Stan Wilson
Filed	:	December 17, 2001
Art Unit	:	3731
Examiner	:	Michael H. Thaler
Title	:	STENT FOR TREATING BIFURCATIONS AND METHOD OF USE
Docket No.:	:	ACS 57812 (2625X)
Customer No.	:	24201

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL

Dear Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner dated February 15, 2005 and May 4, 2005, rejecting each of pending claims 8-14. A check in the amount of $500 is enclosed herewith for the fee for this Notice of Appeal. The Commissioner is hereby authorized, however, to charge any

additional fees which may be required, or credit any overpayment, to Deposit Account No. 06-2425. A duplicate copy of this paper has been enclosed.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: _____
John S. Nagy
Registration No. 30,664

JSN:jeb

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58439.1